IN THE HIGH COURT OF UTTARANCAHL
AT NAINITAL.

Writ Petition No. 898 (S/S) of 2005

Mohd. Sher Afgan,
Son of Sri Zumma,
At present working as Assistant Teacher,
Government Inter College,
Sultanpur Patti,
District – Udham Singh Nagar. **…….Petitioner.**

V e r s u s

1. State of Uttaranchal, through its Secretary, Education Uttaranchal Shashan, Dehradun.
2. Director of Education (Madhyamik), Uttaranchal, Dehradun.
3. Additional Director, Education, Kumaon Mandal, Nainital.
4. Joint Director, Education, Kumaon Mandal, Nainital.
5. District Education Officer, District – Udham Singh Nagar.
6. Principal, Government Inter College, Sultanpur, District – Udham Singh Nagar.

……Respondents

Hon'ble P.C. Verma, J.

Heard Sri M.C. Kandpal, Sr. Advocate, assisted by assisted by Sri S. S. Chaudhary, learned counsel for the petitioners and learned standing counsel, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agreed to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner has challenged the transfer order dated 30.06.2005 passed by Joint Director, Education, Kumaon Mandal, Nainital.

Learned counsel for the petitioner has submitted that petitioner has given a certificate to the authorities that he will not pray for transfer for the next three years from the date of his joining i.e. 15.07.2003.

Admittedly, petitioner is government servant and fundamental rules of the State are applicable upon the petitioners. It is provided in the fundamental rules that a government servant, holding transferable post, can be transferred any where in the State. It is settled law that fundamental rules have overriding effect over the Government Order(s).

No other point has been raised by the learned counsel for the petitioners. It is not disputed that petitioners holds a transferable posts and transfer is exigency in service. From the perusal of record it reveals that transfer order is neither stigmatic nor punish in any manner. Learned counsel for the petitioner is unable to show the malafide in the transfer orders and the same cannot be interfered by this court under Article 226 of the Constitution of India.

In view of the above facts, I do not find any force in the submission of the learned counsel for the petitioner.

Writ petition is dismissed in limine. No order as to costs.

(P.C. Verma, J)

July 18, 2005
S.K.Sharma